NEWS OF THE PROFESSION.

Ernest Houston McClinton, a prominent attorney of Monterey, Highland County, Va., died in Richmond, Va., where he had gone for treatment, on February 25th, 1908, of Bright's disease. He was born in Bath County on January 5th, 1868, attended Bethel Military Academy and the University of Virginia and taught for five years, during three of which he was principal of a high school at Monroe, Louisiana. He graduated at the law school of Washington and Lee University in 1896 and practiced in Highland and the adjoining counties until a short time before his death. He was a lawyer of skill, ability and recognized standing, with a mind well stored with information gained by reading and traveling through America and Europe. His death is one deeply regretted by those who knew him best, and a distinct loss to the State and profession.

NOTES OF CASES.

Variance.—A count based on negligence in an action by an administrator to recover damages for the death of his intestate is not supported by proof of a willful and wanton wrong resulting in the death of plaintiff's intestate, according to the decision of the Alabama Supreme Court in Louisville & N. R. Company *v.* Perkins, 44 Southern Reporter, 602.

Protection of Plaintiff from Arrest as a Lunatic in a Proceeding Had by Him in Court.—The case of John Armstrong Chanler *v.* Thomas T. Sherman, depending in the United States Circuit Court of Appeals for the Second Circuit of the State of New York raises an exceedingly interesting question. Mr. Chanler was declared a lunatic in the State of New York and consigned to Bloomingdale. He came to his home in Virginia and in 1901 the County Court of Albemarle County declared him to be perfectly sane and competent. Mr. Chanler had litigation pending in the State of New York in which his personal presence was absolutely essential in order properly to protect his interests. He prayed for an order in the Circuit Court prohibiting all parties from interfering, molesting, detaining or incarcerating him against the courts or persons in the State of New York whilst he was present in the City of New York for the purpose of attending the trial of the issues in the District Court. Mr. Chanler has filed a very strong brief in the case, citing abundant authority to show that he was in the right of his case in asking this prohibition. Lack of space in the present number prevents us from going at length into this very interesting question, but we hope at a subsequent date

to be able to give the opinion of the Court of Appeals. The District Judge having declined to issue the writ, Mr. Chanler has appealed and the matter is now pending in the Court of Appeals.

Jurisdiction of Offense Committed on Federal Property.—In United States *v.* Battle, 154 Federal Reporter, 540, Judge Speer, of the United States Circuit Court, Western District of Georgia, Southern Division, held that a crime committed on ground acquired by the United States, and ceded to it by the state of Georgia for the purpose of a federal building, was within the exclusive jurisdiction of the United States Courts. He held that the state has authority to cede the ground to the United States, and where it does so the only power which can exercise jurisdiction over such territory to punish crimes committed thereon is the United States, even though the state has restrained the right to exercise its process on the territory ceded.

Liability of Applicant for Receiver for a Deficiency.—In the recent unreported case of Atlantic Trust Co. *v.* Chaplin, Receiver, it was held, by the supreme court of the United States, in an opinion delivered by Mr. Justice Harlan, that a complainant who has in good faith prosecuted a suit upon a good cause of action, and upon whose application the court has properly appointed a receiver, and who obtains a decree fully establishing his rights, is not personally responsible for a deficiency caused by a failure of the property which is the subject of the suit to bring enough to cover the allowances made by the court to the receiver. They adopted the language and the reasoning of the supreme court of Oregon in Farmers' Loan Co. *v.* Railroad Co., 31 Oregon 237, and refused to follow the various rulings to the contrary in the other states.

The Protection of a Fiduciary in Settlement of Estate by Order of Court.—In the case of Carter's Administrator *v.* Skillman, etc., decided March 12th, 1908, II Va. Appeals 3, our Supreme Court has rendered a decision which, whilst of first intention, is of great importance and must commend itself to the profession. In this case an administrator settled his accounts ex parte, which settlement was duly confirmed. Subsequently after proper publication and posting, and under the usual order of the county court, the entire estate was paid over to the only known distributee, without refunding bond. Nine years afterwards a bill was filed setting up the fact that there were other distributees and the circuit court held that the administrator was not protected by the order of the court in making payment to the only known distributee, and decreed against him. On his appeal the Supreme Court held, in an able opinion by Keith, P., that this order protected him against all parties. A very interesting history of the legislation on this subject is given in the opinion and the conclusion is amply justified in the learned opinion of the court.